UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION CASE NO. 3:24-CV-01114-FDW-SCR

BRANDACE HOPPER,)	
)	
)	
Plaintiff,)	
)	
v.)	ORDER & NOTICE
)	
RESURGENT CAPITAL SERVICES LP,)	
)	
)	
Defendant.)	
)	

THIS MATTER is before the Court on Defendant Resurgent Capital Services LP's ("Defendant") Motion to Dismiss, (Doc. No. 2), and Defendant's Motion to Dismiss for Failure to State a Claim as to Plaintiff's Amended Complaint, (Doc. No. 12).

Based on Defendant's previous motions, it appears that Plaintiff served an amended complaint on Defendant at some point before Defendant removed the case. (Doc. No. 8, pp. 1-3.) However, Plaintiff did not file the amended complaint with this Court or with the Mecklenburg County District Court. (Id.) Defendant's motion to dismiss the amended complaint, (Doc. No. 12), pertains to this unfiled amended complaint, which, based on the Court's review of the docket, Plaintiff has still not filed. Therefore, the Court will afford Plaintiff an opportunity to file an amended complaint. If Plaintiff intends to file an amended complaint, he must do so within seven days of this order, by February 12, 2025.

Additionally, Defendant's Motion to Dismiss for Failure to State a Claim as to Plaintiff's Amended Complaint, (Doc. No. 12), is denied without prejudice to refiling if Plaintiff files an amended complaint. If Plaintiff files an amended complaint, Defendant must refile its answer and

may refile its motion to dismiss. If Plaintiff does not file an amended complaint, his original complaint, (Doc. No. 1-2), will remain the operative complaint, and Defendant's Motion to Dismiss, (Doc. No. 2), will remain the operative motion to dismiss.

IT IS THEREFORE ORDERED that Defendant's Motion to Dismiss for Failure to State a Claim as to Plaintiff's Amended Complaint, (Doc. No. 12), is **DENIED WITHOUT** PREJUDICE.

IT IS FURTHER ORDERED that Plaintiff may file his amended complaint on or before February 19, 2025.

The Clerk is respectfully **DIRECTED** to send a copy of this Notice and Order to Plaintiff's address of record.

IT IS SO ORDERED.

Signed: February 5, 2025

Frank D. Whitney

Senior United States District Judge